



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,157	07/23/2003	Mark Bendett	GK-ZEI-3215/ 500343.20226	7991
26418	7590	08/11/2006	EXAMINER	
REED SMITH, LLP ATTN: PATENT RECORDS DEPARTMENT 599 LEXINGTON AVENUE, 29TH FLOOR NEW YORK, NY 10022-7650			FARAH, AHMED M	
			ART UNIT	PAPER NUMBER
			3735	

DATE MAILED: 08/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/625,157

Applicant(s)

BENDETT ET AL.

Examiner

Ahmed M. Farah

Art Unit

3735

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24, 25, 28, 31-33, 44 and 45 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 24 and 25 is/are rejected.
- 7) ☒ Claim(s) 28, 31-33, 44 and 45 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/24/06</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. The indicated allowability of claims 24 and 25 is withdrawn in view of the newly discovered reference(s) to Juhasz et al. (US Patent No. 5,993,438) and Bille et al. (US Patent No. 4,907,586). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 24 is rejected under 35 U.S.C. 102(b) as being anticipated by Juhasz et al. US Patent No. 5,993,438.

Juhasz et al. disclose a method and apparatus for treating visual defects of the eye, the method comprising the steps of:

irradiating to the ocular tissue with laser light with pulse width in the range of 100 fs to 10 ns (see col. 5, lines 21-24), a wavelength of between 300 nm to 3μm, and a pulse repetition frequency of between 0.1 KHz to 100 KHz (see col. 2, lines 22-36 and col. 4, lines 54-56); and

focusing the laser pulses in the corneal tissue, wherein the focal points are guided over the ocular tissue so as to generate a three-dimensional cohesive cut as presently claimed (see col. 2, line 53 through col. 3, line 19 and col. 3, lines 40-50).

Note: as described in paragraphs [0033] and [0038] of the instant application (US 20040243111A1), the applicant's method for scanning/guiding the laser pulses over the target material is analogous to the scanning method of Juhasz et al. (see Juhasz col. 3, lines 40-50).

3. Claims 24 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Bille et al. US Patent No. 4,907,586.

Bille et al. disclose a method for generating three-dimensional surface cut in the cornea, the method comprising the steps of: providing laser pulses, each pulse having a pulse width of approximately 1 ps, wavelength of between 526 nm to 1.053 μ m, pulse energy of less than 30 μ J (see claim 44), and pulse repetition rate of 10 KHz (see col. 2, line 66 through col. 3, line 3).

Allowable Subject Matter

Claims 28, 29, 31-33, 44 and 45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US patent No. 6,805,694 to Donitzky discloses a pulsed laser system for cutting corneal tissue, the laser having a pulse width within the range from

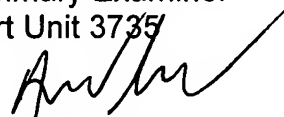
1fs to 10 ns and pulse energy from 1 nJ to 5 mJ (see Fig. 4; col. 1, line 66 through col. 2, line 7; and col. 3, lines 1-3).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ahmed M. Farah whose telephone number is (571) 272-4765. The examiner can normally be reached on Mon-Thur 9:30 AM-7:30 PM, and 9:30 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marmor II Charles can be reached on (571) 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ahmed M Farah
Primary Examiner
Art Unit 3735



August 2, 2006.